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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. APHIS-2016-0052]

Tuberculosis in Cattle and Bison; State and Zone Designations; California

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the bovine tuberculosis regulations regarding State and zone classifications by reclassifying the State of California as accredited-free. We have determined that the State meets the criteria for accredited-free status. This action relieves certain restrictions on the interstate movement of cattle and bison from the State of California.

DATES: This interim rule is effective [Insert date of publication in the Federal Register]. We will consider all comments that we receive on or before [Insert date 60 days after date of publication in the Federal Register].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0052>.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2016-0052, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0052> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. C. William Hench, Cattle Health Center Staff Veterinarian, Surveillance, Preparedness and Response Services, Veterinary Services, APHIS, 2150 Centre Avenue, Fort Collins, CO 80526-8117; (970) 494-7378.

#### SUPPLEMENTARY INFORMATION:

##### Background

Bovine tuberculosis is a contagious and infectious granulomatous disease caused by the bacterium Mycobacterium bovis. Although commonly defined as a chronic debilitating disease, bovine tuberculosis can occasionally assume an acute, rapidly progressive course. While any body tissue can be affected, lesions are most frequently observed in the lymph nodes, lungs, intestines, liver, spleen, pleura, and peritoneum. Although cattle are considered to be the true hosts of M. bovis, the disease has been reported in several other species of both domestic and nondomestic animals, as well as in humans.

At the beginning of the past century, tuberculosis caused more losses of livestock than all other livestock diseases combined. This prompted the establishment in the United States of the National Cooperative State/Federal Bovine Tuberculosis Eradication Program for tuberculosis in livestock.

In carrying out the national eradication program, the Animal and Plant Health Inspection Service (APHIS) issues and enforces regulations. The regulations require the testing of cattle and bison for tuberculosis, define the Federal tuberculosis status levels for States or zones (accredited-free, modified accredited advanced, modified accredited, accreditation preparatory, and nonaccredited), provide the criteria for attaining and maintaining those status levels, and contain testing and movement requirements for cattle and bison leaving States or zones of a particular status level. These regulations are contained in 9 CFR part 77 and in the Bovine Tuberculosis Eradication Uniform Methods and Rules, 1999 (UMR), which is incorporated by reference into the regulations.

The status of a State or zone is based on its prevalence of tuberculosis in cattle and bison, the effectiveness of the State's tuberculosis eradication program, and the degree of the State's compliance with standards for cattle and bison contained in the UMR. The regulations provide that a State may request partitioning into specific geographic regions or zones with different status designations (commonly referred to as split-State status) if bovine tuberculosis is detected in a portion of a State and the State demonstrates that it meets certain criteria with regard to zone classification.

#### Request for Advancement of Modified Accredited Advanced Status

In an interim rule effective and published in the Federal Register on September 18, 2008 (73 FR 54063-54065, Docket No. APHIS-2008-0067), we amended the tuberculosis regulations for cattle and bison by removing the State of California from the list of accredited-free States for bovine tuberculosis and reclassified the State as modified accredited advanced. Because two affected cattle herds had been detected in California since November 2007, the State no longer met our requirements for accredited-free status. That action was necessary to reduce the

likelihood of the spread of bovine tuberculosis within the United States. As a result of that action, cattle or bison moved interstate from anywhere in California have had to meet the testing requirements that apply to animals from modified accredited advanced States or zones.

The State of California has requested that the State be reclassified from modified accredited advanced to accredited-free. Based on the findings of a review of the tuberculosis eradication program in California conducted during the week of April 18 to 22, 2016, APHIS has determined that the State meets the criteria for advancement of status contained in the regulations.

State animal health officials in California have demonstrated that the State enforces and complies with the provisions of the UMR. The State of California has demonstrated that it has zero percent prevalence of cattle and bison herds affected with tuberculosis and has had no findings of tuberculosis in any cattle or bison in the State since the last affected herd completed a test-and-remove herd plan and was released from quarantine in July 2014. Therefore, California has demonstrated that the State meets the criteria for accredited-free status as set forth in the definition of accredited-free State or zone in § 77.5 of the regulations.

Based on our evaluation of California's request, we are classifying the entire State of California as accredited-free.

#### Immediate Action

Immediate action is warranted to relieve restrictions on the interstate movement of cattle and bison from the State of California. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the Federal Register.

We will consider comments we receive during the comment period for this interim rule (see DATES above). After the comment period closes, we will publish another document in the Federal Register. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

#### Executive Order 12866 and Regulatory Flexibility Act

This interim rule is subject to Executive Order 12866. However, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. The full analysis may be viewed on the Regulations.gov Web site (see ADDRESSES above for instructions for accessing Regulations.gov) or obtained from the person listed under FOR FURTHER INFORMATION CONTACT.

Tuberculosis testing, including veterinary fees, costs approximately \$10 to \$15 per head. Approximately 100,000 tuberculosis tests were conducted in California in 2015, to meet the import requirements imposed by other States. Based on this information, the annual cost savings associated with advancing the tuberculosis status of California from modified accredited advanced to accredited-free will range from \$1 million to \$1.5 million. We note that Federal interstate movement testing requirements for modified accredited advanced States were suspended by a Federal Order issued in April 2010. The \$1 million to \$1.5 million in savings that will be realized represents less than 0.02 percent of the approximately \$10 billion earned from California's cattle and milk sales.

Entities that may be affected by the interim rule fall into various categories of the North American Industry Classification System. The majority of the affected businesses are small entities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR chapter IV.)

#### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule has no retroactive effect and does not require administrative proceedings before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

#### List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

Accordingly, we are amending 9 CFR part 77 as follows:

## PART 77—TUBERCULOSIS

1. The authority citation for part 77 continues to read as follows:

Authority: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

### § 77.7 [Amended]

2. In § 77.7, paragraph (a) is amended by adding the word “California,” after the word “Arkansas,”.

### § 77.9 [Amended]

3. In § 77.9, paragraph (a) is amended by removing the word “California” and adding the word “None” in its place.

Done in Washington, DC, this 29<sup>th</sup> day of July 2016.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

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